

MPO(s) under § 450.336, a review of the metropolitan transportation plan by the FHWA and the FTA, and upon other reviews as deemed necessary by the FHWA and the FTA.

(b) In nonattainment and maintenance areas, the MPO, as well as the FHWA and the FTA, shall determine conformity of any updated or amended TIP, in accordance with 40 CFR part 93. After the FHWA and the FTA issue a conformity determination on the TIP, the TIP shall be incorporated, without change, into the STIP, directly or by reference.

(c) If an MPO(s) has not updated the metropolitan transportation plan in accordance with the cycles defined in § 450.324(c), projects may only be advanced from a TIP that was approved and found to conform (in nonattainment and maintenance areas) prior to expiration of the metropolitan transportation plan and meets the TIP update requirements of § 450.326(a). Until the MPO(s) approves (in attainment areas) or the FHWA and the FTA issue a conformity determination on (in nonattainment and maintenance areas) the updated metropolitan transportation plan, the MPO(s) may not amend the TIP.

(d) In the case of extenuating circumstances, the FHWA and the FTA will consider and take appropriate action on requests to extend the STIP approval period for all or part of the TIP in accordance with § 450.220(b).

(e) If an illustrative project is included in the TIP, no Federal action may be taken on that project by the FHWA and the FTA until it is formally included in the financially constrained and conforming metropolitan transportation plan and TIP.

(f) Where necessary in order to maintain or establish operations, the FHWA and the FTA may approve highway and transit operating assistance for specific projects or programs, even though the projects or programs may not be included in an approved TIP.

[81 FR 34135, May 27, 2016, as amended at 81 FR 93473, Dec. 20, 2016]

§ 450.332 Project selection from the TIP.

(a) Once a TIP that meets the requirements of 23 U.S.C. 134(j), 49 U.S.C.

5303(j), and § 450.326 has been developed and approved, the first year of the TIP will constitute an “agreed to” list of projects for project selection purposes and no further project selection action is required for the implementing agency to proceed with projects, except where the appropriated Federal funds available to the metropolitan planning area are significantly less than the authorized amounts or where there are significant shifting of projects between years. In this case, the MPO, the State, and the public transportation operator(s) if requested by the MPO, the State, or the public transportation operator(s) shall jointly develop a revised “agreed to” list of projects. If the State or public transportation operator(s) wishes to proceed with a project in the second, third, or fourth year of the TIP, the specific project selection procedures stated in paragraphs (b) and (c) of this section must be used unless the MPO, the State, and the public transportation operator(s) jointly develop expedited project selection procedures to provide for the advancement of projects from the second, third, or fourth years of the TIP.

(b) In metropolitan areas not designated as TMAs, the State and/or the public transportation operator(s), in cooperation with the MPO(s) shall select projects to be implemented using title 23 U.S.C. funds (other than Tribal Transportation Program, Federal Lands Transportation Program, and Federal Lands Access Program projects) or funds under title 49 U.S.C. Chapter 53, from the approved metropolitan TIP. Tribal Transportation Program, Federal Lands Transportation Program, and Federal Lands Access Program projects shall be selected in accordance with procedures developed pursuant to 23 U.S.C. 201, 202, 203, and 204.

(c) In areas designated as TMAs, the MPO(s) shall select all 23 U.S.C. and 49 U.S.C. Chapter 53 funded projects (excluding projects on the NHS and Tribal Transportation Program, Federal Lands Transportation Program, and Federal Lands Access Program) in consultation with the State and public transportation operator(s) from the approved TIP and in accordance with the priorities in the approved TIP. The

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State shall select projects on the NHS in cooperation with the MPO(s), from the approved TIP. Tribal Transportation Program, Federal Lands Transportation Program, and Federal Lands Access Program projects shall be selected in accordance with procedures developed pursuant to 23 U.S.C. 201, 202, 203, and 204.

(d) Except as provided in § 450.326(e) and § 450.330(f), projects not included in the federally approved STIP are not eligible for funding with funds under title 23 U.S.C. or 49 U.S.C. Chapter 53.

(e) In nonattainment and maintenance areas, priority shall be given to the timely implementation of TCMs contained in the applicable SIP in accordance with the EPA transportation conformity regulations (40 CFR part 93, subpart A).

[81 FR 34135, May 27, 2016, as amended at 81 FR 93473, Dec. 20, 2016]

§ 450.334 Annual listing of obligated projects.

(a) In metropolitan planning areas, on an annual basis, no later than 90 calendar days following the end of the program year, the State, public transportation operator(s), and the MPO(s) shall cooperatively develop a listing of projects (including investments in pedestrian walkways and bicycle transportation facilities) for which funds under 23 U.S.C. or 49 U.S.C. Chapter 53 were obligated in the preceding program year.

(b) The listing shall be prepared in accordance with § 450.314(a) and shall include all federally funded projects authorized or revised to increase obligations in the preceding program year, and shall at a minimum include the TIP information under § 450.326(g)(1) and (4) and identify, for each project, the amount of Federal funds requested in the TIP, the Federal funding that was obligated during the preceding year, and the Federal funding remaining and available for subsequent years.

(c) The listing shall be published or otherwise made available in accordance with the MPO(s) public participation criteria for the TIP.

[81 FR 34135, May 27, 2016, as amended at 81 FR 93473, Dec. 20, 2016]

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§ 450.336 Self-certifications and Federal certifications.

(a) For all MPAs, concurrent with the submittal of the entire proposed TIP to the FHWA and the FTA as part of the STIP approval, the State and the MPO shall certify at least every 4 years that the metropolitan transportation planning process is being carried out in accordance with all applicable requirements including:

(1) 23 U.S.C. 134, 49 U.S.C. 5303, and this subpart;

(2) In nonattainment and maintenance areas, sections 174 and 176(c) and (d) of the Clean Air Act, as amended (42 U.S.C. 7504, 7506(c) and (d)) and 40 CFR part 93;

(3) Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d–1) and 49 CFR part 21;

(4) 49 U.S.C. 5332, prohibiting discrimination on the basis of race, color, creed, national origin, sex, or age in employment or business opportunity;

(5) Section 1101(b) of the FAST Act (Pub. L. 114–357) and 49 CFR part 26 regarding the involvement of disadvantaged business enterprises in DOT funded projects;

(6) 23 CFR part 230, regarding the implementation of an equal employment opportunity program on Federal and Federal-aid highway construction contracts;

(7) The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 *et seq.*) and 49 CFR parts 27, 37, and 38;

(8) The Older Americans Act, as amended (42 U.S.C. 6101), prohibiting discrimination on the basis of age in programs or activities receiving Federal financial assistance;

(9) Section 324 of title 23 U.S.C. regarding the prohibition of discrimination based on gender; and

(10) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and 49 CFR part 27 regarding discrimination against individuals with disabilities.

(b) In TMAs, the FHWA and the FTA jointly shall review and evaluate the transportation planning process for each TMA no less than once every 4 years to determine if the process meets the requirements of applicable provisions of Federal law and this subpart.